

REMARKS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The Examiner is thanked for allowing claims 16-21, 24 and 25; and for considering claims 2-6, 11, 12, 14 and 15 to be allowable if rewritten in independent form.

I. STATUS OF CLAIMS AND FORMAL MATTERS

Claims 1-8 and 10-25 are pending. Claim 1 was amended and claim 9 was cancelled, without prejudice.

No new matter is added by this amendment.

It is submitted that these claims are patentably distinct from the prior art cited by the Examiner, and that these claims are in full compliance with the requirements of 35 U.S.C. §112. The amendments and remarks herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112; but rather the amendments and remarks are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. 35 U.S.C. § 102 REJECTION

Claims 1, 7, 8, 10 and 23 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Aasen et al. The rejection is traversed.

The amendment to claim 1 with the recitation of cancelled claim 9—claim 9 not being rejected as anticipated by Aasen—renders the rejection moot. Consequently, reconsideration and withdrawal of the Section 102(e) rejection are respectfully requested.

III. 35 U.S.C. § 103 REJECTIONS

Claims 9 and 13 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Aasen et al. in view of Ibsen et al. The rejection is respectfully traversed. None of the references, either individually or in combination, teach or suggest Applicants' invention.

The present invention is directed to, for example, a kit for bonding silicone compositions to the surface of an artificial device, where an adhesive, which is applied to a first polymer layer coating said artificial device, provides for better adhesion of silicone impression compositions to the surface of said artificial device, e.g. an impression tray, dental crown, etc., made from polymers or copolymers of methacrylates.

In contrast thereto, the cited art relate to dental adhesives, i.e. adhesives which are directly applied to teeth or their components. That is, Aasen and Ibsen relate to compositions which form strong bonds to teeth or their components. The object of the present invention, however, is to provide a kit for bonding silicone compositions to a base surface made from polymers, polymers of methacrylates or fillers, but not hard tissue (teeth etc.).

Aasen relates to a method for adhering to hard tissue, wherein the hard tissue is specified to be human or animal tissue such as teeth (including the component parts which are enamel, dentin, and cementum), bone, fingernails, and hoofs (cf. column 2, lines 55-61). The kit according to Aasen consists of a primer and dental material. The primer, which comprises an acid and a film former, is directly applied to the hard tissue (teeth, bone, fingernails, and hoofs) and enables formation of strong bonds to dentin (cf. column 2, lines 21-34). The hard tissue can then be finished by overcoating the primer with a dental material, i.e. a dental adhesive (cf. column 8, line 1 ff).

With respect to the polymer disclosed by Aasen, Applicants respectfully point out that the polymer merely represents one constituent of the water-dispersible film former, the film former ^{2009 JUN -4} ~~the film former~~ ^{PA 12: 22} in turn being a component of the primer which enables strong bonding to dentin. In contrast thereto, the partially resolvable (co-)polymers disclosed in the present invention are adapted to form a first layer on the surface of an artificial device. In addition, said partially resolvable (co-)polymers of the present invention are intended to be dissolved or partially dissolved in at least one volatile inert solvent.

Regarding the dental adhesive, Aasen fails to provide a definition. Moreover, Aasen is entirely silent about any composition for bonding silicones. Applicants respectfully note that that regular dental adhesives are not suitable to firmly bond silicone compositions to a base surface. Indeed, the instant specification discusses the not-yet solved problem of adhering silicones to plastics or composites. Accordingly, the kit of Aasen can only be used for the restoration or preservation of teeth, bone, hoofs, and fingernails (cf. column 7-8, bridging paragraph) but not for adhering silicone compositions to composite moldings as instantly claimed.

As Aasen does not disclose, teach, suggest or imply a kit for bonding silicone compositions to a base surface as claimed instantly, a skilled artisan faced with the problem of providing an adhesive system for silicones would certainly not consider a document on adherents for coating teeth, bone, hoofs, and fingernails.

Ibsen is equally defective and does not cure the inherent deficiencies in Aasen. Ibsen relates to a curable composite that has been applied to a dental surface comprising an ethylenically unsaturated monomer, an ethylenically unsaturated coupling agent, a poly-ethylenically unsaturated crosslinking agent, a photoinitiator, and an aqueous containing organic

solvent. The bonding of this composite to dental surfaces uses a coupling agent which provides chemical bonding to the surface to which the adhesive is applied (cf. column 3, lines 29-35). According to Ibsen, the coupling agent is selected from the group consisting of aromatic substituted amino acid alkali metal salts and alkali metal salts of carboxylic acids containing at least one amino group. Contrary to this teaching, however, the kit of the instant invention does not contain such a coupling agent.

Again, the instant invention does not relate to an adhesive for bonding teeth but to bonding silicone compositions to an artificial base surface. Ibsen is silent about any composition for bonding silicones to a base surface. Indeed, silicones are not even mentioned in this document. Thus, Ibsen does not teach or suggest the use of the presently claimed dental adhesive for bonding silicones. Therefore, a skilled artisan could not extrapolate the instant invention from a combination of Aasen and Ibsen.

The Examiner is respectfully reminded that for the Section 103(a) rejection to be proper, both the suggestion and the expectation of success must be found in the prior art, and not in Applicants' own disclosure. In re Dow, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988). Indeed, hindsight based on Applicants' own success as disclosed and claimed in the present application, is not a justifiable basis on which to contend that the ultimate achievement of the present invention would have been obvious at the time the invention was made. In re Fine, 5 U.S.P.Q.2d 1596, 1599, 1600 (Fed. Cir. 1988).

Further, "obvious to try" is not the standard upon which an obviousness rejection should be based. Id. And as "obvious to try" would be the only standard that would lend the Section 103 rejections any viability, the rejections must fail as a matter of law. Therefore, applying the law to the instant facts, the rejection is fatally defective and should be removed.

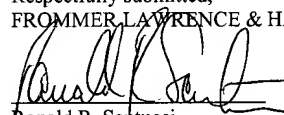
Consequently, reconsideration and withdrawal of the Section 103 rejections are warranted and respectfully requested. 2004 JUN -4 PM 12: 22

CONCLUSION

By this Amendment, the instant claims should be allowed; and this application is in condition for allowance. Favorable reconsideration of the application, withdrawal of the rejections and objections, and prompt issuance of the Notice of Allowance are, therefore, all earnestly solicited.

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